IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.1308 of 2005

Date of Decision: April 03, 2007

Meena

...Petitioner

VERSUS

Siri Krishan & another

...Respondents

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.H.S.Bhullar, Advocate,
for the petitioner.

Mr.Anil Malik, Advocate for
Mr.Rakesh Nehra, Advocate,
for respondent No.1.

Mr.Yashwinder Singh, AAG, Haryana,
for the State.

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RANJIT SINGH, J.

The petitioner is aggrieved against the judgment rendered by the trial court in acquitting respondent Siri Krishan of the allegation of rape made against him by the petitioner.

Petitioner-prosecutrix belongs to village Jahazgarh and was married

to one Manoj Kumar, who was working at Dharuhera. It is alleged that respondent Siri Krishan had taken the prosecutrix and her husband to Delhi on the pretext of providing job to her husband and accordingly they started living together at Nazafgarh. After stay of about one month, respondent gave liquor to the husband of the prosecutrix and when he became unconscious, he was left at Jahazgarh, whereas respondent Siri Krishan came to Nazafgarh and in the absence of the husband, forcibly committed rape of the petitioner. Her husband Manoj Kumar, on learning about the incident, had complained to the panchayat. The matter was also reported to the Nazafgarh Police Station, ultimately leading to registration of FIR No.279 dated 30.11.2002 under Section 376 IPC. During investigation, statement of prosecutrix was also recorded under Section 164 Cr.P.C. Prosecution produced prosecutrix, her husband and other witnesses in support of the charge. On the other hand, the defence by drawing attention to the holes in the prosecution story and the version given by the prosecutrix, states that it is a case of consent and accordingly has pleaded for acquittal of the respondent.

The trial court referred to three different versions given by the prosecutrix in the form of an application given to Superintendent of Police on 26.11.2002, and the one given before Judicial Magistrate under Section 164 Cr.P.C. and then the third one before the court while appearing as witness. It was noticed that in the statement given to Superintendent of Police, no allegation of rape at village Jahazgarh is made, whereas in a statement under Section 164 Cr.P.C., prosecutrix made an allegation of rape at Delhi. In her statement before the court, she did not make any mention of threat

having been advanced to her. Before the court, she also brought out that accused used to commit rape with her one month prior to going Delhi in village Jahazgarh also and that she had not reported this matter to save the honour of family. Noticing these contradictions in the three different statements, the court did not find her evidence to be reliable. The court also noticed that the prosecutrix and her husband had voluntarily accompanied the respondent and had started residing at Nazafgarh, where a job was arranged for her husband. The allegation of giving some intoxicant and leaving her husband, as made by the prosecutrix, were not mentioned in the first application. The trial court also noticed the delay of about 5-10 days on the part of the prosecutrix to make application before the Superintendent of Police, though she was recovered from village Jahazgarh. It is also noticed by the trial court that even when her husband was allegedly left and did not return to the house where she was staying, she did not make any complaint and in fact had shifted to two houses with respondent in order to conceal their residence. Noticing all these facts, the trial court viewed that it is a case of consent and that prosecutrix had made this complaint only being forced by the family members.

Considering these infirmities in the present case, no interference in the verdict of acquittal of respondent is called for. The present revision petition is accordingly dismissed.

April 03, 2007 (RANJIT SINGH)
ramesh JUDGE